



# House of Representatives

General Assembly

**File No. 245**

February Session, 2008

Substitute House Bill No. 5874

*House of Representatives, March 27, 2008*

The Committee on Environment reported through REP. ROY, R. of the 119th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## ***AN ACT CONCERNING ENVIRONMENTAL DISCLOSURE STATEMENTS AND THE SALE OF PROPERTY.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. (NEW) (*Effective October 1, 2008*) (a) For the purposes of
- 2 this section, "environmentally hazardous site" includes any:
- 3 (1) Waste site or reportable release listed in the database of the
- 4 Department of Environmental Protection;
- 5 (2) Solid waste management facility listed in the database of the
- 6 Department of Environmental Protection;
- 7 (3) Final superfund site listed in the national priority list database of
- 8 the United States Environmental Protection Agency;
- 9 (4) Proposed superfund site listed in the database of the United
- 10 States Environmental Protection Agency;
- 11 (5) Hazardous waste treatment, storage or disposal facility listed in

12 the database of the United States Environmental Protection Agency;

13 (6) Emergency response notification system site listed in the  
14 database of the National Response Center of the United States Coast  
15 Guard;

16 (7) Active Department of Defense site, listed in the database of the  
17 United States Department of Defense; or

18 (8) Former Department of Defense site listed in the database of the  
19 United States Department of Defense.

20 (b) Each person who offers for sale any residential property in the  
21 state that is located on or within three hundred feet or less of an  
22 environmentally hazardous site shall provide a written disclosure that  
23 conforms to the requirements of subsection (c) of this section to the  
24 prospective purchaser not less than fourteen days prior to the  
25 prospective purchaser's execution of a contract to purchase, unless the  
26 prospective purchaser has waived, in writing, such requirement. The  
27 prospective purchaser may terminate such purchaser's obligation to  
28 purchase not later than seven business days after the receipt of such  
29 disclosure on the basis of the contents of such disclosure without  
30 incurring any charges, penalties, or the loss or forfeiture of any  
31 deposits. A photocopy, duplicate original, facsimile transmission, or  
32 other exact reproduction or duplicate of the written disclosure,  
33 containing the signatures of both seller and purchaser, shall be  
34 attached to any agreement to purchase the property. The seller of a  
35 unit in a condominium may satisfy the requirements of this section by  
36 providing a disclosure statement prepared by or for the condominium  
37 association or trust.

38 (c) Such notice shall contain the following:

39 "NOTICE OF POTENTIAL VAPOR INTRUSION CONDITION OR  
40 PROXIMITY TO POTENTIAL ENVIRONMENTAL HAZARD SITE

41 This property is located within 300 feet of the following described  
42 potential environmental hazard site that may or may not affect this

43 property. For that reason, you may wish to investigate or obtain  
44 further information about vapor intrusion or about the site by  
45 contacting the agency responsible for its maintenance or cleanup,  
46 consider what negative factors, if any, are associated with vapor  
47 intrusion or the property's proximity to the site, and determine  
48 whether the information you receive is acceptable to you before you  
49 purchase this property. If the information you receive is not acceptable  
50 to you, you have seven business days from the receipt of this  
51 disclosure statement to terminate your obligation to purchase without  
52 incurring any charges, penalties or the loss or forfeiture of any  
53 deposits."

54 (d) Such written disclosure may be prepared by a third-party  
55 provider acting within the scope of such provider's professional  
56 expertise. Such provider may indicate, in writing, an understanding  
57 that the information provided will be used in fulfilling the  
58 requirements of this section and may indicate the sites, disclosures or  
59 parts thereof, to which the information being furnished is applicable.  
60 Such provider shall not be responsible for any disclosure of  
61 information, other than the information expressly set forth by the  
62 third-party provider in the statement.

63 (e) Neither the seller nor any real estate agent or broker shall be  
64 liable for any error, inaccuracy or omission in the disclosure statement,  
65 or in any other information that may be delivered pursuant to this  
66 section if (1) the error, inaccuracy or omission was not within the  
67 personal knowledge of the seller, real estate agent or broker, (2) the  
68 error, inaccuracy or omission was based on information provided by a  
69 public agency or by a third-party provider as provided in subsection  
70 (d) of this section, and (3) ordinary care was exercised in obtaining and  
71 transmitting the information.

72 (f) The provisions of this section shall apply only to transfers by sale  
73 of residential real property consisting of not less than one or more than  
74 four dwelling units, including cooperatives and condominiums, and  
75 shall apply to all such transfers, with or without the assistance of a

76 licensed real estate broker or salesperson, as defined in section 20-311  
77 of the general statutes.

This act shall take effect as follows and shall amend the following sections:
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Section 1	<i>October 1, 2008</i>	New section
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***Statement of Legislative Commissioners:***

In subsection (e), a reference to subsection (b) was changed to subsection (d) for accuracy and technical changes were made to subsection (f) for clarity.

***ENV***      *Joint Favorable Subst.-LCO*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

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***OFA Fiscal Note***

***State Impact:*** None

***Municipal Impact:*** None

***Explanation***

There is no fiscal impact for requiring environmental disclosure statements prior to the sale of residential property.

***The Out Years***

***State Impact:*** None

***Municipal Impact:*** None

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**OLR Bill Analysis****HB 5874*****AN ACT CONCERNING ENVIRONMENTAL DISCLOSURE  
STATEMENTS AND THE SALE OF PROPERTY.*****SUMMARY:**

This bill requires people who sell certain residential property within 300 feet of an environmentally hazardous site to disclose this fact to prospective buyers. It allows the prospective buyer to cancel a purchase agreement within seven business days of receiving this disclosure. The 300-foot radius apparently extends from the dwelling itself, and not the property line. The bill applies to all applicable sales, regardless of whether they involve a licensed real estate broker or salesperson.

It allows third-party providers to prepare the written disclosure, specifies the form it must take, and identifies the types of hazardous sites the bill covers. It exempts the seller, real estate agent, or broker from liability for any errors, inaccuracies, or omissions in the disclosure statement that were (1) not personally known to them and (2) based on information they received from a public agency or third-party provider, provided they exercised ordinary care in obtaining and transmitting it.

EFFECTIVE DATE: October 1, 2008

**DISCLOSURE REQUIREMENT AND PROVISIONS**

The bill requires anyone who offers to sell any residential property consisting of one to four dwelling units, including condominiums and cooperatives, to provide a written disclosure to the prospective buyer if the property is located on or within 300 feet of an environmentally hazardous site. The seller must provide the disclosure at least 14 days

before executing a contract to buy the property. The prospective buyer may waive this requirement in writing. Apparently the waiver applies to the disclosure itself, and not the 14-day deadline.

It allows a prospective buyer to cancel his obligation to buy within seven business days after receiving the disclosure without paying any charges or penalties or losing a deposit. It requires an exact reproduction or duplicate of the disclosure, signed by the buyer and seller, to be attached to the purchase agreement. A person who sells a condominium unit may satisfy the bill's requirements by providing a disclosure statement prepared by or for the condominium or trust.

### **DISCLOSURE FORM**

The disclosure must state the following:

“NOTICE OF POTENTIAL VAPOR INTRUSION  
CONDITION OR PROXIMITY TO POTENTIAL  
ENVIRONMENTAL HAZARD SITE

This property is located within 300 feet of the following described potential environmental hazard site that may or may not affect this property. For that reason, you may wish to investigate or obtain further information about vapor intrusion or about the site by contacting the agency responsible for its maintenance or cleanup, consider what negative factors, if any, are associated with vapor intrusion or the property's proximity to the site, and determine whether the information you receive is acceptable to you before you purchase this property. If the information you receive is not acceptable to you, you have seven business days from the receipt of this disclosure statement to terminate your obligation to purchase without incurring any charge, penalties, or the loss or forfeiture of any deposits.”

### **THIRD-PARTY PROVIDERS**

The bill authorizes a third-party provider, acting in its scope of professional expertise, to prepare the written disclosure. The provider

may indicate, in writing, its understanding that the information provided will be used to fulfill the bill's requirements, and may indicate the sites, disclosures or parts thereof, to which the furnished information applies. The provider is not responsible for any disclosure of information other than that provided in its statement. The provider apparently must specify the location of the hazardous site and the type of hazard it presents. The bill does not define or specify the expertise the third-party provider must have.

### **ENVIRONMENTALLY HAZARDOUS SITES**

Under the bill, an environmentally hazardous site includes a:

1. waste site, reportable release, or solid waste management facility listed in a Department of Environmental Protection database;
2. final Superfund site listed in the U.S. Environmental Protection Agency's (EPA) national priority list database;
3. proposed Superfund site listed in the EPA database;
4. hazardous waste treatment, storage, or disposal facility listed in the EPA database;
5. emergency response notification system site listed in the U.S. Coast Guard National Response Center's database; or
6. active or former U.S. Defense Department site listed in the department's database.

### **BACKGROUND**

#### ***Superfund***

Superfund is the name given to the environmental program established to address abandoned hazardous waste sites. It is also the name of the fund established by the 1980 Comprehensive Environmental Response, Compensation and Liability Act. This law <http://www.epa.gov/history/topics/lovecanal/index.htm> allows EPA to clean up such sites and compel responsible parties to perform cleanups or reimburse the government for EPA-lead cleanups.



***Emergency Response Notification System***

The Emergency Response Notification System contains reports on discharges of oil and other hazardous substances. These reports contain data from spill reports submitted to the National Response Center.

**COMMITTEE ACTION**

Environment Committee

Joint Favorable

Yea 25      Nay 2      (03/12/2008)